

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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ABDOOL AZEEZ,

Petitioner,

-against-

SUPERINTENDENT LYNN LILLY,

Respondent.

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**ORDER**

22 Civ. 6028 (KMK) (JCM)

On November 21, 2023, the District Attorney of Westchester County, New York, on behalf of Superintendent Lynn Lilly (“Respondent”), filed its response in opposition to Petitioner Abdool Azeez’s Petition for a writ of habeas corpus. (Docket Nos. 29, 30, 31). The Petition is currently *sub judice*. The Court has reviewed the submissions and has determined that additional information is required before a Report and Recommendation can be issued.

Accordingly, Respondent is directed to file a supplemental brief by April 15, 2024, addressing: (1) what effect, if any, Petitioner’s first and second state habeas corpus petitions have on the statute of limitations under AEDPA for the filing of this action; (2) whether Petitioner’s state habeas corpus petitions constitute a “properly filed application” under *Smalls v. Smith*, No. 05-CV-5182, 2009 WL 2902516 (S.D.N.Y. Sept. 10, 2009),<sup>1</sup> and its progeny; and (3) whether the statute of limitations was tolled from August 26, 2021, when Petitioner’s direct appeal concluded, to November 18, 2021, when the Court of Appeals denied Petitioner request for leave to appeal denial of his second state habeas corpus petition. Petitioner may respond to Respondent’s supplemental brief, if he wishes to do so, by May 13, 2024.

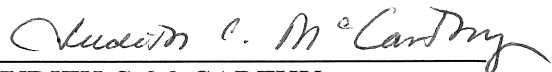
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<sup>1</sup> If Petitioner does not have access to this case, then he may request copies from Respondent’s counsel. *See* Local Civ. R. 7.2 (“Upon request, counsel shall provide the *pro se* litigant with copies of such unpublished cases and other authorities as are cited in a decision of the Court and were not previously cited by any party.”).

The Clerk is respectfully directed to mail a copy of this Order to Petitioner.

Dated: April 1, 2024  
White Plains, New York

**SO ORDERED:**

  
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JUDITH C. McCARTHY  
United States Magistrate Judge